

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Pending before the Court is Plaintiffs' motion for preliminary injunction. Plaintiffs allege six causes of action, injunctive relief, and damages. The causes of action are: (1) Cybersquatting under the Lanham Act, 15 U.S.C. § 1125(d); (2) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114; (3) Unfair Competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) Common Law Trademark Infringement; (5) Deceptive Trade Practices under N.R.S. § 598.0915; and (6) Intentional Interference with Prospective Economic Advantage. (Am. Compl., 6-10).

1 A hearing on the motion for preliminary injunction was
2 scheduled for July 30, 2013 at 10:15AM. The Defendants were given
3 notice of the hearing through electronic mail as authorized by the
4 court. ECF No. 16. Defendants have failed to respond to the motion
5 for preliminary injunction and failed to appear at the hearing.

6 Upon consideration of the motion filed by Plaintiffs Hakkasan,
7 LV, LLC ("Hakkasan"), requesting a preliminary injunction requiring
8 Defendants Tsang Hang Wang and Prime Nightlife, LLC ("Defendants")
9 to immediately cease and desist all use of the <hakkasanlasvegas.net>
10 domain name ("Infringing Domain Name") and Hakkasan Limited's
11 trademarks and requiring the domain name registrar to lock the
12 domain name at issue and the supporting memorandum of points and
13 authorities, the supporting declarations and evidence, the record
14 in this case, and for other good cause shown:

15 THE COURT FINDS AND CONCLUDES THAT:

16 This court has subject matter jurisdiction pursuant to 15
17 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338.

18 The court has personal jurisdiction over the Defendants and
19 that Defendants regularly conduct business in the State of Nevada
20 and Defendants committed tortious acts that they knew or should
21 have known would cause injury to Plaintiffs in the State of Nevada.

22 Plaintiff Hakkasan LV, a Nevada limited liability company, is
23 an indirect wholly owned subsidiary of Plaintiff Hakkasan Parent, a
24 foreign private limited company that is in the process of
25 qualifying to do business in the State of Nevada. Hakkasan LV owns
26 and operates Hakkasan, a premier nightclub and restaurant venue
27 located inside the MGM Grand Hotel and Casino on the Las Vegas
28 strip ("Hakkasan Las Vegas"). Hakkasan Parent also owns and/or

1 operates, either directly or through its subsidiary companies,
2 several other Hakkasan restaurants around the globe, including
3 Dubai, London, New York, San Francisco, and Miami.

4 Hakkasan Parent owns the mark HAKKASAN in connection with,
5 among other things, restaurant, bar, and nightclub services. In
6 particular, Hakkasan Parent owns a federal trademark registration
7 (U.S. Reg. No. 3,789,248) for HAKKASAN for bar and restaurant
8 services and a pending trademark application (U.S. Ser. No.
9 85/928057) for nightclubs, nightclub services in the nature of
10 reservation and booking services for the purpose of arranging for
11 admission to nightclubs, and related services (the "HAKKASAN
12 Marks"). Plaintiff is a licensee of the HAKASSAN Marks in
13 connection with its ownership and operation of Hakkasan Las Vegas
14 and has the exclusive right to use the HAKKASAN Marks in Las Vegas,
15 Nevada.

16 Plaintiffs have made extensive use of the HAKKASAN Marks on,
17 among other things, signage, billboards and promotional materials.

18 Based on Hakkasan Parent's federal trademark registration,
19 pending federal trademark application and extensive use, Hakkasan
20 Parent owns the exclusive right to use its HAKKASAN Marks in
21 connection with restaurant, bar, nightclub, and related services.
22 As a licensee of the HAKKASAN Marks, Hakkasan LV is entitled to the
23 exclusive right to use the HAKKASAN Marks in Las Vegas, Nevada in
24 connection with Hakkasan Las Vegas for restaurant, bar and
25 nightclub services and is entitled to enforce its rights against
26 Defendants.

27 The extensive advertising and promotion of Hakkasan Las
28 Vegas and the other Hakkasan locations around the world have

1 resulted in the HAKKASAN name and mark being distinctive for the
2 restaurant, bar, and nightclub services.

3 Defendants have used the HAKKASAN marks as part of their
4 Internet domain name <hakkasanlasvegas.net> without Plaintiffs'
5 authority or permission.

6 A preliminary injunction may be issued if Plaintiffs
7 establish: (1) the Plaintiffs will probably prevail on the merits;
8 (2) Plaintiffs will likely suffer irreparable injury if relief is
9 denied; (3) the balance of equities tips in Plaintiffs' favor; and
10 (4) an injunction is in the public interest. *Winter v. Natural*
11 *Res. Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Alternatively,
12 an injunction may issue under the "sliding scale" approach if there
13 are serious questions going to the merits and the balance of
14 hardships tips sharply in Plaintiffs' favor, so long as plaintiffs
15 still show a likelihood of irreparable injury and that an
16 injunction is in the public interest. *Alliance for the Wild*
17 *Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011).

18 "An injunction is a matter of equitable discretion and is an
19 extraordinary remedy that may only be awarded upon a clear showing
20 that the Plaintiff is entitled to such relief." *Earth Island Inst.*
21 *v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation
22 marks omitted).

23 A person shall be liable in a civil action by the owner of a
24 mark if that person has a bad faith intent to profit from that
25 mark, and registers, traffics in, or uses a domain name that is:
26 (1) identical or confusingly similar to a mark that is distinctive
27 at the time of the domain registration; or (2) identical or
28 confusingly similar to or dilutive of a mark that is famous at the

1 time of the domain registration. 16 U.S.C. § 1125(d).

2 After consideration of the motion and Plaintiffs' Amended
3 Complaint, ECF No. 10, and accompanying exhibits, the Court finds
4 and concludes Plaintiffs are likely to succeed on the merits of
5 their claims under the Lanham Act that the <hakkasanlasvegas.net>
6 domain name and the website located at that domain name, as well as
7 the url link at the website located at the <primenightlife.com>
8 domain name demonstrate a bad faith intent to profit from the
9 HAKKASAN Marks, and that the <hakkasanlasvegas.net> domain name is
10 confusingly similar to the HAKKASAN Marks, which were distinctive
11 or famous at the time of the domain registration in February 2013.

12 As indicated, Plaintiffs have demonstrated likelihood of
13 success on the merits of their cybersquatting claims against
14 Defendants under the Lanham Act, 15 U.S.C. § 1125(d).

15 Plaintiffs have demonstrated likelihood of success on the
16 merits of their trademark infringement claims against Defendants
17 under the Lanham Act, 15 U.S.C. § 1114, and Nevada law.

18 Plaintiffs have also demonstrated likelihood of success on the
19 merits of their unfair competition claims against Defendants under
20 the Lanham Act, 15 U.S.C. § 1125(a).

21 Plaintiffs will suffer irreparable injury if the Court does
22 not require the domain name registrar Namecheap.com (the
23 "Registrar") to lock the infringing <hakkasanlasvegas.net> domain
24 name pending litigation of this matter.

25 Plaintiffs have demonstrated that they will suffer irreparable
26 harm if a Preliminary Injunction is not entered because Defendants
27 could transfer the Infringing Domain Name to another registrant or
28 registrar. Transfer of the Infringing Domain Name to another

1 registrant would deprive the Court of jurisdiction and require
2 Plaintiffs to file additional suits to recover their intellectual
3 property. Transfer of the Infringing Domain Name to another
4 registrar would require Plaintiffs to expend significant effort and
5 financial resources to track the registration.

6 The balance of hardships tips in favor of Plaintiffs because
7 issuance of the injunction would merely lock the domain name
8 pending trial, and failure to issue the injunction would cause
9 Plaintiffs to suffer irreparable injury to their name and marks and
10 the associated goodwill if Defendants are not enjoined from
11 registering, maintaining the registration on or using domain names
12 containing Plaintiffs' marks or marks confusingly similar thereto.

13 There is no likelihood of harm to the public from the
14 preliminary injunction now being granted.

15 It is THEREFORE ORDERED, ADJUDGED, AND DECREED that: the
16 Application for Preliminary Injunction is hereby GRANTED;

17 IT IS FURTHER ORDERED that, pursuant to 15 U.S.C. §
18 1125(d)(1)(C), the domain name <hakkasanlasvegas.net> shall be
19 immediately locked by the Registrar and/or its successor
20 registrars;

21 IT IS FURTHER ORDERED that Defendants, their respective
22 officers, agents, servants, employees and/or all persons acting in
23 concert or participation with them, or any of them, are prohibited
24 from :(1) using Plaintiff Hakkasan Limited's trademarks or
25 confusingly similar variations thereof, alone or in combination
26 with any other letters, words, letter strings, phrases, or designs,
27 in commerce or in connection with any business or for any other
28 purpose (including, but not limited to, on websites and in domain

1 names): and (2) registering, owning, leasing, selling, or
2 trafficking in any domain names containing Plaintiff Hakkasans
3 Limited's trademarks or confusingly similar variations thereof,
4 alone or in combination with any other letters, words, letter
5 strings, phrases, or designs; and that Defendants are prohibited
6 from transferring the domain name <hakkasanlasvegas.net> during the
7 pendency of this action or until further order of the Court.

8 IT IS FURTHER ORDERED that the Registrar and/or its successor
9 registrar remove all existing Domain Name Servers (DNS) entries and
10 corresponding addresses, and enter the Registrar's default DNS and
11 address entries to prevent further damage cause by the infringing
12 use of the Infringing Domain Name.

13 IT IS FURTHER ORDERED that the Defendants shall file, pursuant
14 to 15 U.S.C. § 1116(a), with this Court and serve upon the
15 Plaintiff within thirty (30) days after entry of this order, a
16 report in writing under oath setting forth in detail the manner and
17 form in which Defendants have complied with this Court's order; and

18 IT IS FURTHER ORDERED that the bond of \$ 100 posted with the
19 court shall constitute the bond for the preliminary injunction.

20 The Court permits service of the preliminary injunction by
21 electronic mail in addition to effectuating service as required by
22 Fed. R. Civ. P. 4 & 5.

23
24 **IT IS SO ORDERED.**

25 DATED: This 30th day of July, 2013.

26 

27 UNITED STATES DISTRICT JUDGE
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